



COMMONWEALTH OF  
PUERTO RICO

Telecommunications Regulatory Board  
Office of the Chairman

June 19, 2015

Chairman Tom Wheeler  
Commissioner Mignon Clyburn  
Commissioner Jessica Rosenworcel  
Commissioner Ajit Pai  
Commissioner Michael O'Reilly

Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: **Connect America Fund, Phase II Frozen Support for Puerto Rico, WC Docket No. 10-90**

Chairman Wheeler and Commissioners,

I write to you today about the important interest that the people of Puerto Rico have in the Federal Communications Commission's (the "Commission" or "FCC") current consideration of a negotiated "frozen support" plan for the Connect America Fund in our island, and to offer my assistance in that negotiation process. This negotiation is an important opportunity for Puerto Rico as we embark upon implementing our government's recently released *Gigabit Island Plan: Puerto Rico Broadband Strategic Assessment*.<sup>1</sup>

As the *Gigabit Island Plan* documents, the broadband availability and adoption gap in Puerto Rico is substantial and severe. In a report the Commission released earlier this year, no state has more Americans without access to 3 Mbps down/768 kbps up fixed broadband service than Puerto Rico.<sup>2</sup> Approximately one in fourteen Americans without access to 3 Mbps down/768 kbps up fixed broadband – nearly one million American citizens – lives in Puerto Rico.

The Puerto Rico *Gigabit Island Plan* represents the work of a wide number of government and public stakeholders in the Island, and we are working hard to close the significant broadband access and adoption gaps our population faces. That extensive broadband planning process was coordinated with the Puerto Rico Broadband Task Force (PRBT), and culminated in the adoption and release of *The Gigabit Island Plan*.

<sup>1</sup> *The Gigabit Island Plan: Puerto Rico Broadband Strategic Assessment* (Feb. 2015), available at: [http://www.connectpr.org/sites/default/files/connected-nation/pr\\_gigabit\\_plan\\_020915\\_final.pdf](http://www.connectpr.org/sites/default/files/connected-nation/pr_gigabit_plan_020915_final.pdf).

<sup>2</sup> *2015 Broadband Progress Report*, GN 14-126, 30 FCC Rcd. 1375, Appendix G (2015).



The Puerto Rico Telecommunications Regulatory Board (the "Board") runs a number of programs designed to close the digital divide including the establishment of public free Internet Access Centers, as well as digital literacy training programs, such as TecnoAbuelos,<sup>4</sup> designed to address key barriers to broadband adoption. The Board is also working to reform our state universal service fund so that, once it regains its financial health, it can support the construction of broadband networks in unserved areas, emulating the Commission's Connect America Fund, as well as other incentives for broadband deployment and adoption.

In short, both the Board and the Commission are working to address the digital divide that persists on the Island and threatens our economic recovery. Coordination and collaboration between the Board and the Commission in addressing this challenge will help ensure that our mutual efforts will achieve the broadest possible impact for the people of Puerto Rico.

Towards these ends is that I convey, on behalf of the Board and the Commonwealth of Puerto Rico, our position in regards Connect America Fund "frozen support" negotiations between the Commission and Puerto Rico Telephone Company, Inc. (PRTC). The outcome of these negotiations will shape the deployment of broadband infrastructure in Puerto Rico for the next decade, and it is imperative that we work together to make sure that this opportunity best benefits the people of Puerto Rico.

#### 1. The Broadband Access Gap in Puerto Rico

93 The state of fixed broadband access in Puerto Rico substantially trails behind infrastructure deployment across the U.S. mainland. According to the Commission's *2015 Broadband Progress Report*, 27% of the population of Puerto Rico does not have adequate access to 3 Mbps down/768 Kbps up fixed broadband service, a **lower level of broadband availability than any state** in the United States, including Alaska.<sup>5</sup>

Indeed, according to the Commission's *2015 Broadband Progress Report*, there are more Americans in Puerto Rico – nearly one million – without fixed access to 3 Mbps down/768 kbps up broadband than in any other state. In fact, there are more people in Puerto Rico without access to 3 Mbps/768 kbps fixed service than the similarly-unserved populations of Colorado, Idaho, Montana, Nebraska, New Hampshire, New Jersey, Nevada, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Washington, and Wyoming combined.

However, the Connect America Fund Cost Model that is being used by the Wireline Competition Bureau to estimate and allocate support across underserved areas does not fully recognize the substantial need for increased broadband investment in Puerto Rico. The latest "illustrative results" of the model that included subsidy estimates for Puerto Rico (CACM 4.2) propose to address the broadband availability gap in Puerto Rico by offering a scant \$7.4 million per year, **less than one half of**

<sup>4</sup> See <http://tecnoabuelos.com/wp/>

<sup>5</sup> *2015 Broadband Progress Report*, GN 14-126, 30 FCC Rcd. 1375, Appendix G (2015).



one percent of the Fund.<sup>6</sup> To address a gap in basic broadband availability that affects nearly 1 million residents of Puerto Rico every day (and 1 in 14 Americans that do not have such access), the FCC model would have offered subsidies that at best only would fund network upgrades to 17,609 home and business locations.<sup>7</sup> Moreover, this funding would represent a substantial cut of high-cost universal service funding to the incumbent in Puerto Rico, now approximately \$36 million per year, at a time when the Commission itself has noted the national imperative of reasonable and timely deployment of broadband service to all Americans.

## II. Recommendations for Connect America Fund Phase II "Frozen Support"

Last year, the Commission recognized the inequitable results of the Connect America Fund Cost Model. In December 2014, the Commission delegated authority to the Wireline Competition Bureau to engage in negotiations with incumbent price cap providers on Puerto Rico and other non-contiguous territories and states to develop "tailored service options" for use of "frozen" universal service fund support that "would be consistent with the Commission's goal of universal availability of modern networks capable of providing voice and broadband service to homes, businesses, and community anchor institutions."<sup>8</sup> On December 22, 2014, Puerto Rico Telephone Company, Inc. (PRTC) notified the Bureau of its interest in negotiating a "frozen" support arrangement.<sup>9</sup> In that letter, PRTC referenced an August 2014 filing in which PRTC stated that it would be able to use frozen support to build networks capable of supporting 10 Mbps down/768 kbps up to over 58,425 locations on Puerto Rico that do not have such access.<sup>10</sup>

I hereby express my strong support to all efforts to ensure that the Connect America Fund provides robust and sufficient support to close the fixed broadband availability gap in Puerto Rico. The Commonwealth and the people of Puerto Rico should be included in the Commission's effort to negotiate a "frozen support" arrangement with PRTC. The *Gigabit Island Plan* notes:

Puerto Rico public and private stakeholders should actively engage in this process and work with the FCC as it establishes the rules associated with these subsidies. In early 2015, the FCC will determine the scope of service obligations, including speed, quality, and price, that it will associate with these CAF subsidies. Those decisions will

<sup>6</sup> Wireline Competition Bureau Announces Availability of Version 4.2 of the Connect America Phase II Cost Model and the First Version of an Alternative Cost Model Being Developed for Potential Use In Rate-of-Return Areas, WC Docket No. 10-90, Public Notice, 29 FCC Rcd 16157 (Wireline Comp. Bur. 2014).

<sup>7</sup> By contrast, in the final version of the Connect America Cost Model (CACM 4.3), providers serving the 14 states listed above will be offered \$174 million per year to upgrade networks serving over 217,000 locations. This is collectively more than 2300% more subsidy support than the draft Model would have offered to build networks to the larger unserved population in Puerto Rico.

<sup>8</sup> *Connect America Fund et al.*, WC Docket Nos. 10-90 et al., Report and Order, 29 FCC Rcd 15644, 15661-15663, paras. 45-49 (2014) (*December 2014 Connect America Order*).

<sup>9</sup> Letter from Thomas J. Navin, Counsel to Puerto Rico Telephone Company, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Dec. 22, 2014). The public record of WC Docket No. 10-90 does not indicate that any further negotiations between the Wireline Competition Bureau and PRTC have occurred on this matter since the December 22, 2014 letter from PRTC.

<sup>10</sup> Comments of Puerto Rico Telephone Company, Inc., WC Docket No. 10-90 et al., at 8-10 (filed Aug. 8, 2014).

substantially affect the broadband landscape in Puerto Rico for the next decade; as a result, public input into these decisions will be especially important. Robust and timely data on broadband infrastructure and use across Puerto Rico will be essential to ensure that as the FCC moves forward on the Connect America Fund project, it will do so in a way that helps the residents of Puerto Rico.<sup>11</sup>

To achieve these goals and assist the Commission in this negotiation, I would like to lay out a few core principles that draw from the *Gigabit Island Plan* and which I will continue to advance in this proceeding.

1. **Connect America Fund subsidies to Puerto Rico should at a minimum remain at current levels of funding, and should increase should the Connect America Fund realize cost savings in other states.**

The fixed broadband availability gap in Puerto Rico documented above is well-known and endemic. I wholeheartedly agree with other stakeholders that funding to support fixed broadband network construction and operations in Puerto Rico should not be cut at a time when fixed broadband availability in Puerto Rico is far lower than in any state of the United States.

The starting point budget for Connect America Fund subsidies to Puerto Rico should be at current levels of funding at a minimum, I recognize that the Bureau's Connect America Cost Model does not regard many of the nearly one million residents of Puerto Rico without this access as residing in "high cost" areas – but that does not change the fact that these Americans remain unserved. The Commission's responsibility under Section 254 of the Act to ensure universal access to services "reasonably comparable" to urban areas is not limited to "high cost" areas only, but to "[c]onsumers in all regions of the Nation," including "insular areas" like Puerto Rico.<sup>12</sup> Seven percent (7%) of all American Citizens without access to 3 Mbps download/768 kbps upload fixed broadband networks lives in Puerto Rico. Now is not the time to cut subsidies designed to fill that gap to less than one-half of one percent of the Commission's program.

Indeed, the Commission's experience with the Connect America Fund indicates that there is the potential for cost savings. For example, Jonathan Chambers, Chief of the FCC's Office of Strategic Planning and Policy Analysis, wrote last year that the Commission's first experiment with competitive bidding for Connect America Fund subsidies revealed that Rural Broadband Experiment bidders asked for support in the aggregate of "less than half the model-based support for those census blocks" and that the total subsidies for winning bids were "just ten percent of the model-based support for those particular blocks."<sup>13</sup> Based on this experience, it would seem that many of the census blocks that the Commission's cost model assumes to be "high cost" may not be "high cost" at all. Therefore, in addition to frozen support levels, the Commission should establish that any cost savings realized from the Connect America Fund Phase II competitive bidding process would first be reallocated to remaining unserved areas, including those in Puerto Rico, that are not addressed by the model.

<sup>11</sup> *Gigabit Island Plan* at 47.

<sup>12</sup> 47 U.S.C. §254 (b)(3).

<sup>13</sup> *Notes from the Sandbox – The Rural Broadband Experiment Auction Results*, Official FCC Blog (Dec.24, 2014), available at: <http://www.fcc.gov/blog/notes-sandbox-rural-broadband-experiment-auction-results>

**2. The negotiated "tailored service option" for Puerto Rico should include the broadband speed targets set by the *Gigabit Island Plan***

Any frozen support subsidy offer or agreement should foster and facilitate achievement of the aggressive broadband deployment goals. The *Gigabit Island Plan* sets forth the following broadband targets for the Island:

- By 2018, 90% of Puerto Rico households will have broadband available at download speeds of 10 Mbps.
- By 2018, 50% of Puerto Rico households will have broadband available at download speeds of 1 Gbps.
- By 2020, 99% of Puerto Rico households will have broadband available at download speeds of 10 Mbps.
- By 2020, 70% of Puerto Rico households will have broadband available at download speeds of 1 Gbps.

Connect America Fund recipients in Puerto Rico should be required to meet these deployment milestones in their full service territory. These targets are in line with the Commission's recent action in the *2015 Broadband Progress Report* to increase its speed benchmark to 25 Mbps download/3 Mbps upload based on urban availability and adoption trends.

**3. Connect America Fund recipients in Puerto Rico should undertake scalable network construction plans that will lower the future cost of broadband investment**

93 The Connect America Fund program is an opportunity not only to upgrade networks one time, but to do so in a scalable manner that facilitates future upgrades. The Government of Puerto Rico is taking a number of aggressive steps to lower the cost of broadband build-out, and I believe that Connect America Fund subsidy recipients in Puerto Rico should be required to take advantage of these opportunities. In particular, in addition to Commission requirements, Connect America Fund recipients in Puerto Rico should –

- Where available, utilize vacant underground duct infrastructure recently made available by the Telecommunications Regulatory Board and the Puerto Rico Department of Transportation and Public Works (DTOP) through the Via Digital initiative.<sup>14</sup> The more these common, multi-use conduits are used in the industry, the cheaper it will be for all broadband providers, thus supporting further investment in higher-speed infrastructure.
- Without affecting the competitive telecommunications market, Connect America Fund recipients should maximize publicly owned fiber optic infrastructure which can lower costs overall and facilitate investment.
- Support and participate in public-private partnerships that are designed to promote higher-speed network investment, which are described on pages 42-43 of the *Gigabit Island Plan*.

**4. Connect America Fund recipients in Puerto Rico should be required to offer high-speed broadband service to the Puerto Rico Telecommunications Regulatory Board's Internet Access Centers and Wi-Fi Public Squares, as well as other public and non-for-profit Community**

<sup>14</sup> See <http://viadigital.jrtpo.pr.gov/proposito/>



**Technology Centers, at rates, terms, and conditions consistent with recent E-rate rules and other community anchor institution requirements**

In Puerto Rico, government-established Community Tech Centers (CTCs) and Puerto Rico Telecommunications Regulatory Board's Internet Access Centers / Wi-Fi Public Squares frequently take the place of libraries in offering public Internet access and training. The Board has established 77 free Internet Access Centers and free Wi-Fi Public Squares in 51 municipalities. The Board undertook this initiative in coordination with central government agencies, municipalities, and other private, educational, and community entities. Many of these Centers, however, currently offer Internet at speeds of only 3 Mbps download, which is progressively unsuitable for any facility that supports multiple users simultaneously. The *Gigabit Island Plan* recommends that these initiatives be expanded, and the Board will do so in the short term, in conjunction with sister agencies.

In December 2014, the Commission recognized the need to support the higher bandwidth needs of libraries and schools when it required all Connect America Fund recipients to offer high-speed broadband service to schools and libraries in areas in which they receive support, at rates reasonably comparable to similar services in urban areas.<sup>15</sup>

Because free Access Centers and free Wi-Fi Public squares play a role in digital literacy and learning similar to public libraries on the mainland, a condition of Connect America Fund frozen support should include a requirement that the recipient offer broadband service to these institutions in subsidized areas as they would be required to offer public libraries on the mainland. The purpose of a negotiated Connect America Fund frozen support program is to devise a solution that is "tailored" to Puerto Rico's unique circumstances. The Commonwealth of Puerto Rico is investing heavily in these institutions to help the large, disconnected population on the Island begin to use and adopt broadband services. The same rationale that led the Commission to place this requirement on all Connect America Fund recipients on the mainland applies to any frozen support recipient in Puerto Rico. In addition, doing so would greatly assist the Board and the Commonwealth in implementing the *Gigabit Island Plan*.

5. In identifying areas that qualify for Connect America Fund Phase II support, the Commission should coordinate with the Puerto Rico Telecommunications Regulatory Board so as to fully leverage a modernized Puerto Rico's Universal Service Fund

Since 1998, the Telecommunications Regulatory Board has been required by law to guarantee all citizens of Puerto Rico telecommunications service at fair, reasonable, and affordable prices. To achieve this goal, the Board has created the Puerto Rico Universal Service Fund, which has subsidized the provision of intrastate services in Puerto Rico, including Telecommunications Relay Service and Lifeline. In December 2014, the Board sought comment as to whether to convert the Puerto Rico Universal Service Fund to "incentivize high speed Internet service and the most advanced technology at low, affordable prices."<sup>17</sup> That proceeding remains open.

<sup>15</sup> *Modernizing the E-rate Program for Schools and Libraries, Connect America Fund*, WC Docket Nos. 13-184, 10-90, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538, 15562-69, paras. 60-76 (2014).

Connect America Fund recipients must offer services that meet the Commission's E-rate connectivity targets.

<sup>17</sup> *In re Modernization of the Puerto Rico Universal Service Fund*, Case No. JRT-2014-SC-001, Notification of Request for Comment (Dec. 24, 2014).

Section 254 of the federal Communications Act "plainly contemplates a partnership between the federal and state governments to support universal service" and that "it is appropriate—even necessary— for the FCC to rely on state action."<sup>18</sup> In identifying the areas eligible that are to receive broadband upgrades as part of the Connect America Fund Phase II process, the Commission should coordinate directly with the Board as we modernize our state universal service fund to support broadband. Ideally, this coordination would avoid duplicative funding and also will help identify locations in Puerto Rico in which both federal and state support might be needed to incentivize investment.

**6. All measurement and assessment of investment undertaken pursuant to the Connect America Fund should be specific and available to the Commonwealth of Puerto Rico**

The *Gigabit Island Plan* recommends implementation of a rigorous broadband mapping and measurement program for the Island, to track progress against our broadband targets. In addition to mapping and validating availability, the *Gigabit Island Plan* recommends that providers and stakeholders collect and publish quarterly information including:

- Total number of subscribers by type, overall capital investment, revenues, job creation and other industry-wide statistics.
- Total monthly or quarterly consumption of IP data across Puerto Rico for fixed and mobile broadband networks.
- Mean and median monthly or quarterly consumption of IP data for fixed and mobile broadband subscribers. Metrics should capture both download and upload data usage.
- Peak IP traffic composition data for fixed and mobile broadband networks, both download and upload. Categories of data to be monitored could include enterprise-to-enterprise traffic, entertainment, web browsing, social networking, and communications, among others.
- Top ten peak period applications used for both download and upload traffic.

I appreciate and welcome the Commission's intent to rigorously monitor and validate the use of Connect America Fund subsidies. In the spirit of cooperative federalism, I request that the information gathered from Connect America Fund annual reports and filings be shared with the Puerto Rico Telecommunications Regulatory Board so that we may track progress against our *Gigabit Island Plan* goals and our efforts to modernize the Puerto Rico Universal Service Fund as well.

\* \* \*


As Chairman of the Puerto Rico Telecommunications Regulatory Board, it is my responsibility to serve the people of Puerto Rico and guard their interests. The Commonwealth of Puerto Rico and the island's telecommunications sector have been highly focused on improving the broadband infrastructure and its use. Puerto Rico's broadband infrastructure and policy has improved, but we are still a long way from parity with the U.S. mainland. As I noted above, the Commission cannot forget that one out of every fourteen Americans without access to basic, fixed broadband of 3 Mbps down/768 kbps up – 7% – lives in Puerto Rico.

---

<sup>18</sup> *Qwest Corp. v. FCC*, 258 F.3d 1191, 1203 (10th Cir. 2001).

The *Gigabit Island Plan* shaped by the Puerto Rico Broadband Task Force and adopted and released by the Commonwealth of Puerto Rico is designed to move Puerto Rico forward, in a decisive manner. We share a common goal: maximize the beneficial impact that Connect America Fund Phase II funding can have on consumers, businesses, and community anchor institutions. Puerto Rico's broadband challenge is large, but the opportunity to revitalize Puerto Rico's economy is also immense. I look forward to working with you and Commission staff to bring these benefits of broadband to Puerto Rico and our people.

Cordially,

A handwritten signature in blue ink, appearing to read 'J. Rúa Jovet', with a stylized flourish at the end.

Javier Rúa Jovet, Esq.  
Chairman